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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/463,470	01/21/2000	MORTEN SOEGAARD	P01938US0	6355
26271	7590	07/13/2004	EXAMINER	
FULBRIGHT & JAWORSKI, LLP 1301 MCKINNEY SUITE 5100 HOUSTON, TX 77010-3095				SAUNDERS, DAVID A
ART UNIT		PAPER NUMBER		
		1644		

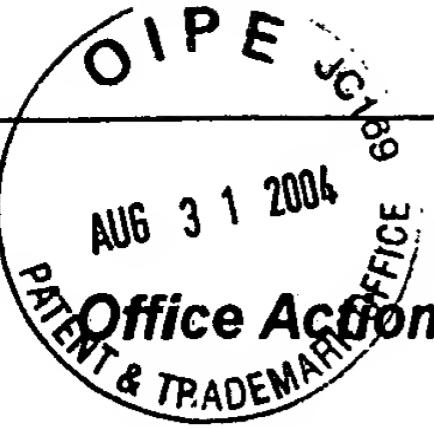
DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Received 

JUL 19 2004

Docket: P01938US0  
Client: Active Biotech  
Attorney: DLF



Application No.	09/463,470	Applicant(s)	SOEGAARD ET AL.
Examiner	David A Saunders, PhD	Art Unit	1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 05 April 2004.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 35-84 is/are pending in the application.
- 4a) Of the above claim(s) 47-84 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 35 and 37-46 is/are rejected.
- 7) Claim(s) 36 is/are objected to.
- 8) Claim(s) 35-84 are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All
    - b) Some \*
    - c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

Art Unit: 1644

**BEST AVAILABLE COPY**

- 1) Response of 4/5/04 has been entered. Claims 35-84 are pending. Claims 35-46 are under examination.

Examiner notes the record is confused as to what claims are pending. In responses of 11/2/02 and 4/5/04, applicant refers to claims 35-46 as pending. The examiner finds no amendment canceling claims 47-84. In response of 4/5/04, applicant refers to a separate attachment of all claims and their current status; these sheets were not attached and thus examiner has no idea what applicant may have intended to indicate as the status of claims 47-84.

- 2) The response overcome previously stated issues as follows:

The objection to the specification.

The prior art rejections under 102(a) and 103 based upon Belfrage et al.

The prior art rejection under 102 (a) based upon Lando et al. Examiner reiterates that the rejection of record was under 102 (a), not 102 (b); thus the 1.132 declaration executed by Terje Kalland, in accord with In re Katz, is effective.

- 3) The following rejections of record are maintained as follows:

Claims 35, 37-41 and 45-46 are rejected under 35 U.S.C. 102(a) as being anticipated by Belfrage (Thesis, 1996) for reasons of record.

Claims 35 and 37-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belfrage (Thesis) in view of Abrahmsen et al and Antonsson et al, for reasons of record.

TEST AVAILABLE COPY

The declaration under 37 CFR 1.132 filed 4/5/04 is insufficient to overcome the rejection of claims 35 and 37-46 based upon the prior art rejections over the Belfrage thesis as set forth in the last Office action because:

Declarant Goran Forsberg did not place a full date by the signature; the date lacks a year.

**4) THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**5)** This application contains claims 47-84 drawn to an invention nonelected without traverse in the reply filed on 2/15/02. A complete reply to the final rejection should include cancellation of nonelected claims, in order to avoid the scenario of paying extension of time fees for cancellation of nonelected claims.

**6)** Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Saunders, PhD whose telephone number is 571-272-0849. The examiner can normally be reached on Mon-Thu from 8:00 to 5:30. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*David A Saunders*  
DAVID SAUNDERS  
PRIMARY EXAMINER  
ART UNIT 162-1644

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. ER509328843US, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: August 31, 2004

Signature:

(Ronnie Webb)

Docket No.: HO-P01938US0  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Morten Soegaard et al.

Application No.: 09/463,470

Group Art Unit: 1644

Filed: January 21, 2000

Examiner: D. A. Saunders

For: CYTOLYSIS OF TARGET CELLS BY  
SUPERANTIGEN CONJUGATES INDUCING  
T-CELL ACTIVATION

**TRANSMITTAL LETTER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Enclosed are the following items for filing in connection with the above-referenced Patent Application:

1. Amendment After Final Action (4 pages);
2. Rule 1.132 Declaration (3 pages);
3. Copy of Office Communication dated 7/13/2004 (5 pages); and
4. Postcard.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 06-2375, under Order No. HO-P01938US0.

Dated: August 31, 2004

Respectfully submitted,

By

David L. Fox

Registration No.: 40,612

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